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9 **BEFORE THE**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **FOR THE CEMETERY AND FUNERAL BUREAU**
12 **STATE OF CALIFORNIA**

13
14 In the Matter of the Accusation Against:

Case No. A1 2018 230

15 **MCA FUNERAL HOME;**
16 **FOUAD KHATIB, PRESIDENT**
17 1755 Catherine Street
Santa Clara, CA 95050

A C C U S A T I O N

18 **Funeral Establishment License No. FD 2206**

19 Respondent.

20 Complainant alleges:

21 **PARTIES**

22 1. Lisa M. Moore (Complainant) brings this Accusation solely in her official capacity as
23 the Bureau Chief of the Cemetery and Funeral Bureau (Bureau), Department of Consumer
24 Affairs.

25 2. On or about June 4, 2014, the Bureau issued Funeral Establishment License No. FD
26 2206 to MCA Funeral Home (Respondent), with Fouad Khatib as President. The Funeral
27 Establishment License was in full force and effect at all times relevant to the charges brought in
28 this Accusation and will expire on June 30, 2019, unless renewed.

1 **JURISDICTION**

2 3. This Accusation is brought before the Director of the Department of Consumer
3 Affairs (Director) for the Bureau under the authority of the following laws. All section references
4 are to the Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 118, subdivision (b), of the Code states:

6 "The suspension, expiration, or forfeiture by operation of law of a license issued by a board
7 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order
8 of a court of law, or its surrender without the written consent of the board, shall not, during any
9 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
10 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
11 provided by law or to enter an order suspending or revoking the license or otherwise taking
12 disciplinary action against the licensee on any such ground."

13 5. Section 7686 of the Code provides that the Bureau may suspend or revoke licenses,
14 after proper notice and hearing to the licensee, if the licensee has been found guilty by the Bureau
15 of any of the acts or omissions constituting grounds for disciplinary action, and that the
16 proceedings shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of
17 the Government Code.

18 6. Section 7703 of the Code provides that violations of Bureau statutory provisions or
19 regulations constitute a ground for disciplinary action.

20 **STATUTES AND REGULATIONS**

21 7. Section 7616.2 of the Code states, in pertinent part that, a licensed funeral
22 establishment shall at all times employ a licensed funeral director to manage, direct, or control its
23 business or profession.

24 8. California Code of Regulations, title 16, section 1204 states:

25 "(a) Any person, association, partnership, corporation or other organization licensed and
26 conducting business as a funeral establishment shall designate a licensed funeral director to
27 manage the establishment, and shall report the designation to the bureau within ten (10) days of
28 the effective date of the designation."

1 “(b) The designated managing licensed funeral director of a licensed funeral establishment
2 shall be responsible for exercising such direct supervision and control over the conduct of said
3 funeral establishment as is necessary to ensure full compliance with the Funeral Directors and
4 Embalmers Law, the provisions of this chapter and the applicable provisions of the Health and
5 Safety Code. Failure of the designated managing licensed funeral director and/or the licensed
6 funeral establishment to exercise such supervision or control, or failure of the holder of the
7 funeral establishment license to make such designation shall constitute a ground for disciplinary
8 action.”

9 9. California Code of Regulations, title 16, section 1213, subdivision (a), states:

10 “Where there is a change in the corporate officers or the designated managing licensed
11 funeral director of a funeral establishment, such change, including the names and titles of the new
12 corporate officers or the name of the new designated managing licensed funeral director, shall be
13 reported to the bureau, in writing, within ten (10) days of such change on the form NC1 (12/93)
14 prescribed by the bureau accompanied by the fee fixed by this division.”

15 **COST RECOVERY**

16 10. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the
17 administrative law judge to direct a licensee found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 **FACTUAL BACKGROUND**

21 11. Respondent's designated managing funeral director, Mostafa Masri FDR 3699,
22 stopped working at Respondent's establishment in late 2015, and Respondent failed to notify the
23 Bureau of a replacement. The Bureau discovered the lack of a designated managing funeral
24 director during an inspection of Respondent's establishment on or around December 21, 2016.
25 Since then, the Bureau sent numerous letters to Respondent requesting documentation that a new
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1 designated managing funeral director had been appointed but Respondent failed to comply with
2 the requests.¹ The Bureau also issued two citations to Respondent as follows:

3 (a) On or about October 9, 2017, the Bureau issued Citation No. IC 2017 297 to
4 Respondent for failure to designate a licensed funeral director as manager (Cal. Code Regs., tit.
5 16, § 1204) and failure to report a change of manager (Cal. Code Regs., tit. 16, § 1213). No fine
6 was assessed.

7 (b) On or about January 23, 2018, the Bureau issued Citation No. IC 2018 7 to
8 Respondent for the same violations and a \$200 fine was assessed. Respondent paid the fine on or
9 about, March 27, 2018, but still failed to designate a new licensed managing funeral director.

10 **CAUSE FOR DISCIPLINE**

11 (Failure to Employ, Designate, or Report Change of Licensed Managing Funeral Director)
12 (Bus. & Prof. Code, § 7616.2; Cal. Code Regs., tit. 16, §§ 1204 and 1213)

13 12. Respondent has subjected its Funeral Establishment License to discipline in that it
14 failed to employ, designate, or report a change of a licensed managing funeral director (Bus. &
15 Prof. Code, § 7616.2; Cal. Code Regs., tit. 16, §§ 1204 and 1213). The circumstances are set
16 forth in paragraph 11, above.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
19 Accusation, and that following the hearing, the Director of the Department of Consumer Affairs
20 issue a decision:

21 1. Revoking or suspending Funeral Establishment License No. FD 2206, issued to MCA
22 Funeral Home;

23 2. Ordering MCA Funeral Home to pay the Cemetery and Funeral Bureau the
24 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
25 Professions Code section 125.3; and,

26 ¹ In or around July of 2017, the Bureau received a Notification of Change application to
27 change all four of the corporate officers, but the application did not list a change of managing
28 funeral director. The application was deemed deficient because none of the listed individuals
seeking association had completed Live Scan electronic fingerprinting, and as a result, no changes
were made to the Bureau's records.

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3. Taking such other and further action as deemed necessary and proper.

DATED: November 6, 2018 Lisa M. Moore

LISA M. MOORE
Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant

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